

General Information Letter: Conformity to federal Revenue Procedure 97-22.

December 4, 1998

Dear:

Please excuse the delay in responding to your letter dated October 16, 1998, in which you request a General Information Letter. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department.

Although you have not specifically requested either type of ruling, the information you have provided requires that we respond with a general information letter.

In your request you stated:

We are requesting that you respond to us in writing on whether the State of Illinois follows the Internal Revenue Service's "Revenue Procedure 97-22" regarding a company's electronic storage and retention of its hardcopy documents received or produced in the normal course of business.

Please write back informing us if a company doing business in Illinois can discard its hardcopy documents as long as it satisfies the Internal Revenue Service's "Revenue Procedure 97-22" as it pertains to the electronic scanning, storage and retention of its documents via an electronic storage system.

Department Analysis

Please be advised that neither the Illinois Income Tax Act ("IITA") nor the regulations promulgated thereunder, provide a minimum time for which records should be retained. Moreover, no rules exist as to whether records should be retained in electronic or print form. Section 501 of the IITA, however, states that:

Every person liable for any tax imposed by this Act shall keep such records, render such statements, make such returns and notices, and comply with such rules and regulations as the Department may from time to time prescribe. Whenever in the judgment of the Director it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns and notices, render such statements, or keep such records, as the Director deems

sufficient to show whether or not such person is liable for tax under this Act. (Source: P.A. 76-261.)

In general, records which substantiate any information reported on an Illinois income tax return should be retained until after the limitations period for issuance of a notice of deficiency with respect to that return has expired. Access to the records is what is of concern to Illinois, not the form that the records are in. Accordingly, by satisfying the mandates of IRS "Revenue Procedure 97-22" your recordkeeping may be sufficient for Illinois income tax purposes but Illinois itself has taken no position regarding IRS "Revenue Procedure 97-22".

I hope that this has been helpful to you. If you have additional questions please feel free to contact me at the above address.

Sincerely,

Charles E. Matoesian
Associate Attorney (Income Tax)